

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

GALAXY GENERAL CONTRACTING CORP.
and ARCH INSURANCE GROUP, INC.

Case No.: 1:10-CV-1667

Plaintiffs,

- against -

ANSWER TO COUNTERCLAIM

ILLINOIS UNION INSURANCE COMPANY,

Defendant.

-----X

Plaintiffs, GALAXY GENERAL CONTRACTING CORP. and ARCH INSURANCE GROUP, INC., by their attorneys, Gallo Vitucci and Klar LLP, as and for their answer to the March 8, 2010 counterclaim ("Counterclaim") of Defendant ILLINOIS UNION INSURANCE COMPANY, allege as follows:

COUNTERCLAIM

1. Deny the allegations set forth in paragraph 30 of the Counterclaim.
2. Deny the allegations set forth in paragraph 31 of the Counterclaim.
3. Deny the allegations set forth in paragraph 32 of the Counterclaim.

FIRST AFFIRMATIVE DEFENSE

4. The Counterclaim fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

5. The Counterclaim is barred, in whole or in part, by the applicable statute(s) of limitations.

THIRD AFFIRMATIVE DEFENSE

6. Plaintiffs have a defense to the Counterclaims based upon documentary evidence.

FOURTH AFFIRMATIVE DEFENSE

7. The Counterclaim is barred, in whole or in part, because it would result in unjust enrichment to Defendant.

FIFTH AFFIRMATIVE DEFENSE

8. The Counterclaim is barred by the doctrine of unclean hands.

SIXTH AFFIRMATIVE DEFENSE

9. Defendant has failed to mitigate its damages, if any, and Defendant is barred from recovering any such damages.

SEVENTH AFFIRMATIVE DEFENSE

10. The Counterclaim is barred by the doctrines of waiver and/or estoppel.

EIGHTH AFFIRMATIVE DEFENSE

11. Plaintiffs reserve all rights to assert additional defenses (insurance policy-based or otherwise) upon receipt and review of all documents and other material or information relevant to this matter.

WHEREFORE, Plaintiffs demand (a) judgment dismissing the Counterclaim in its entirety, together with costs, disbursements and reasonable attorneys' fees; and (b) such other and further relief as is deemed just and proper.

Dated: New York, New York
March 29, 2010

GALLO VITUCCI & KLAR LLP

By: Chad E. Sjoquist /s

Jeff Richman
jrichman@gvlaw.com
Chad E. Sjoquist (CES-0142)
csjoquist@gvlaw.com
Attorneys for Plaintiffs
GALAXY GENERAL CONTRACTING CORP.
and ARCH INSURANCE COMPANY
90 Broad Street, 3rd Floor
New York, New York 10004
Tel No.: (212) 683-7100
File No.: ARC-2009-38A

TO: HODGSON RUSS LLP
Attorneys for Defendant
The Guaranty Building
140 Pearl Street, Suite 100
Buffalo, New York 14202
Tel. No. (716) 856-4000
Via Email: *pomovic@hodgsonruss.com and*
ryan_cummings@hodgsonruss.com

CERTIFICATE OF SERVICE

I certify that on March 29, 2010, I caused a copy of Plaintiffs Galaxy General Contracting Corp. and Arch Insurance Group's Answer to Counterclaim to be served via Federal Express on the following:

Ryan K. Cummings, Esq.
HODGSON RUSS LLP
Attorneys for Defendant
The Guaranty Building
140 Pearl Street, Suite 100
Buffalo, New York 14202
Tel. No. (716) 856-4000

/s

Claudette Fraser